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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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Standing Committee on Social Policy

Pay Transparency Act, 2018

3rd Session
41st Parliament

Wednesday 18 April 2018

Comité permanent de la politique sociale

Loi de 2018
sur la transparence salariale

3^e session
41^e législature

Mercredi 18 avril 2018

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Clerk: Jocelyn McCauley

Président : Peter Tabuns
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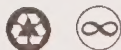
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Wednesday 18 April 2018

Mercredi 18 avril 2018

The committee met at 1530 in committee room 1.

PAY TRANSPARENCY ACT, 2018

LOI DE 2018

SUR LA TRANSPARENCE SALARIALE

Consideration of the following bill:

Bill 3, An Act respecting transparency of pay in employment / Projet de loi 3, Loi portant sur la transparence salariale.

The Vice-Chair (Miss Monique Taylor): Good afternoon, committee members. We are meeting this afternoon to resume public hearings on Bill 3, An Act respecting transparency of pay in employment. Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members, divided equally among the recognized parties.

Are there any questions before we begin? Ms. Forster.

Ms. Cindy Forster: Do we have an agenda of the presenters? I don't seem to have one.

Interjections.

Mr. John Fraser: Where does the rotation start?

The Vice-Chair (Miss Monique Taylor): The official opposition.

UNITED FOOD AND COMMERCIAL
WORKERS CANADA

The Vice-Chair (Miss Monique Taylor): We can call our first presenter, which is UFCW.

Begin with your name, please.

Ms. Debora De Angelis: Debora De Angelis, UFCW Canada.

As Canada's leading union for retail and food workers, UFCW Canada represents over 250,000 workers across this country and more than 105,000 members in Ontario. UFCW Canada members live and work in communities across the province. Over 50% of UFCW Canada members are women; 40% are young members under the age of 30.

UFCW Canada is encouraged by the government of Ontario's introduction of Bill 3, a new pay transparency act to help close the gender pay gap. The latest census figures reveal that indigenous women in Ontario face a 43% pay gap, racialized women face a 38% gender pay

gap, immigrant women face a 34% gender wage gap, women with disabilities face a 46% pay gap, and, on average, women face a 30% gender pay gap. Canada's gender pay gap is the seventh largest out of 34 countries in the OECD, and the government itself reports that the pay gap has not closed in 30 years.

Without pay transparency, women can't enforce their rights to equal pay. At present, non-unionized workers do not know the pay structure in their workplaces. They can be disciplined and even terminated for asking about or sharing wage information, yet provincial laws require individual workers to file individual complaints to enforce their rights to discrimination-free pay.

As a front-line worker, I receive calls every day from workers, especially women, who call because of discriminatory wage practices and see the union as a vehicle to remedy this issue. Pay transparency remedies this defect. It puts the onus on employers to disclose their wages to prove that they are complying with their existing legal obligations under the Ontario Human Rights Code, Employment Standards Act and Pay Equity Act.

Pay transparency enables workers, particularly non-unionized workers, to know about and enforce their right to non-discriminatory pay. Pay transparency tells employers that the time's up on discrimination. And it works. Pay transparency is an internationally recognized approach to closing the gender pay gap. In 2014, the European Commission passed the recommendation that its member states implement pay transparency.

Now it's time for Ontario to implement strong pay transparency legislation so we can catch up with the global leaders in closing the gender pay gap.

UFCW Canada supports the Equal Pay Coalition's calls for significant amendments to strengthen this act and bring it in line with employers' existing legal obligations not to discriminate. It is our position that Bill 3 must be strengthened to ensure that it contains broad coverage of the act to all employers in both the public and private sectors with 10 or more employees.

The Ontario government, in its own economic statement, has noted that 98% of employers in this province have 49 or fewer employees. Pay transparency in Iceland, Denmark and Belgium, for example, applies to employers with 25, 35 and 50 employees respectively. Australia's law applies to employers with 100 employees. The UK's law applies to employers with 250 employees.

The government has many international models to build on, but they chose to aim lower than the weakest existing model, which is in the UK. Even in the UK, initial transparency reports reveal that 74% of employers pay men significantly more than women.

Bill 3 must be strengthened to ensure it contains clear reporting obligations and timelines. The new act must specify the pay transparency reporting obligations, including compensation structure and wage grids, by gender, job classification and job status—full-time, part-time, casual. Bill 3 must be strengthened to ensure it contains a robust and explicit purpose clause and a robust enforcement mechanism, including significant public penalties and human rights damages to ensure compliance with the act.

In conclusion, Iceland's government in 2017 pledged to eradicate the gender pay gap by 2022. It stuck to its promise to introduce stronger legislation that ensures gender equality in the workplace.

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Debora De Angelis: Okay. We support the Equal Pay Coalition's call for planning and action on many levels so that Ontario achieves a 0% gender pay gap by 2025. History has shown that if you want progress, you need to enforce it. The government is in an excellent position to show leadership. Ontario has no time to waste. Women in Ontario are done waiting.

The Vice-Chair (Miss Monique Taylor): Thank you very much—very well done. Right on time.

We will start with the official opposition and—Mr. Yakabuski?

Mr. John Yakabuski: I'm the only one sitting here right now.

Thank you, Debora, for joining us this afternoon. You talked about the need to eliminate the gap and make progress. You talked about the Pay Transparency Act being the tool. We've had the Pay Equity Act for 30 years. Was it not the tool to reduce, close and eliminate the gender pay gap? If that legislation were adhered to and enforced, could that not eliminate the gap, if it were governed accordingly?

Ms. Debora De Angelis: Thank you for your question. Pay equity looks at the undervaluation of women's work. It's one way of closing the gender wage gap. It is not the solution. The Employment Standards Act looks at equal pay for equal work, and the Ontario Human Rights Commission looks at sex discrimination. So in fact, you need all three in order—

Mr. John Yakabuski: But they're all in place today. They exist.

Ms. Debora De Angelis: Right—in order to close the gender wage gap now.

The government itself has said that the gender wage gap has not moved in 30 years. They all exist; the problem is, there's nothing really forcing employers' hands to reveal the systemic discrimination that is happening in the workplaces. That's why we need pay transparency.

Mr. John Yakabuski: But if we took those acts—employment standards, pay equity—if we beefed them up and enforced them the way they should be enforced—clearly, if it hasn't happened in 30 years, it's not working. Could we not take those acts and strengthen them?

Ms. Debora De Angelis: I think we need to look at models like Iceland, where they are on track to close the gender wage gap. They were only able to do it through pay transparency laws, where you can see and look at systemic discrimination and be able to deal with it.

Mr. John Yakabuski: Transparency is good, but could we not have that by amending the current statutes? Could we not achieve that by amending current statutes?

Ms. Debora De Angelis: I think that closing the gender wage gap involves many mechanisms. You're not going to be able to do it with just one mechanism. Whether it's strengthening pay equity or strengthening—you're going to need multiple applications to close this, and one of them is mandatory forcing of employers to report.

Mr. John Yakabuski: Okay. Thank you very much. We appreciate your testimony today.

Ms. Debora De Angelis: Thank you.

The Vice-Chair (Miss Monique Taylor): We'll move on to the third party and Ms. Forster.

Ms. Cindy Forster: Thanks, Debora, for being here today. Just to follow up on Mr. Yakabuski's questions, the important piece that's missing is actually the collection of the data. Regardless of whether it's a Human Rights Code violation, an employment standards violation or a pay equity violation, we need a process and a tool to actually collect the data and make sure that employers are complying with the legislation.

1540

The Human Rights Commission weighed in today, and they recommend the following:

- reference relevant human rights law in the purpose and the preamble clause, which is what the coalition is suggesting—that we need to have preamble scope clause. This is what it's meant to do;

- broaden the legislation's application to employers with more than 10 employees, not 500, regardless of the size of the employer;

- include strong compliance measures, including penalties; and

- that personal data can be protected to prevent discrimination and harassment but it needs to be protected in a way that anonymizes to minimize the possible identification risks for employers.

The Human Rights Commission, which certainly has been around a long time fighting systemic discrimination, is giving recommendations to the government that the government should be listening to today and as the amendments come forward tomorrow.

Ms. Debora De Angelis: Thank you. Good to see that they're supporting the Equal Pay Coalition's amendments.

Ms. Cindy Forster: So in your kind of retail workforce, what is the gender gap, on average?

Ms. Debora De Angelis: In the unionized settings, because there's a collective agreement, employers already have to list the wages. So, in fact, in unionized settings we're already collecting that data.

Ms. Cindy Forster: But for those who are working in your sector and aren't unionized?

Ms. Debora De Angelis: Well, I get calls every day. We don't have the data that shows that. All I can tell you is anecdotal because we don't have anybody collecting this data to show. I can tell you that it happens every day where you have a man and woman standing right next to each other doing exactly the same job in companies right here making gazillions of dollars and being paid differently just because of their sex.

A woman's choice is either to go—

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Debora De Angelis: —and bring that forward and get fired and have no income, or not say anything about it. That's the way it stands right now.

Ms. Cindy Forster: And we often hear that people are actually told on hire not to disclose their wage to any of their co-workers or they will be fired.

Ms. Debora De Angelis: You will be fired. Yes: secret wage policies.

Ms. Cindy Forster: Thank you.

The Vice-Chair (Miss Monique Taylor): We'll move on to the government: Mr. Fraser.

Mr. John Fraser: Ms. De Angelis, thank you very much for being here today. I was a member of UFCW about 20 years ago for about 15 years. I spent 22 years in the grocery business.

I want to make some comments about transparency—and I'm going to leave a bit of time for my colleague Mr. Colle—because my colleague across the way raised it. I grew up in the grocery business, and there was always a discrepancy between the jobs that men and women held, especially at the supervisory level, in how they were designated and the salaries that were paid. Because there was a contract in transparency, when that legislation came in you could see that gap close relatively quickly.

I haven't been in the business for about 20 years. It wasn't fully closed so you might want to comment on where it may be at right now, I don't know, but the importance of transparency to ensure that you actually—that's why the change happened: because there was a call to action and there was already transparency that existed there so people had to negotiate in that way.

I'll leave a bit of time for Mike.

Mr. Mike Colle: I guess the thing I wanted to mention as a follow-up here, Debora, is that maybe part of the education campaign behind this whole new legislation is that you have a right to know and you have a right to tell what your pay is. You have a right to ask. Right now there's a hidden taboo that if you ask or talk about pay then you could be out the door.

Is that still that strong, that sentiment, out there in workplaces?

Ms. Debora De Angelis: The way the legislation is written right now, it's not going to deal with 98% of the workforce; it's only going to deal with 2%. Where, really, the precarious jobs are, where women are most discriminated, is with the small employers. The way the legislation is written right now, they are not going to be covered at all by this legislation. It doesn't matter how much education you put out there; if you work in a workplace with less than 250, which is the majority of the workers out there, this legislation will not cover you.

What we're here saying today is that if you really want to make an effect and you really want to close this gender wage gap and show leadership, you're going to have to do it in workplaces with less than 10. That's going to make an impact. That's going to provide women with one more tool to close the gender wage gap, and right now, they don't have it.

Mr. Mike Colle: On the other hand, all these other huge workplaces—how many people work in bigger companies?

Ms. Debora De Angelis: Two per cent.

Mr. Mike Colle: Of all the workers?

Ms. Debora De Angelis: Yes. According to your own statistics, 98% of Ontario workplaces are less than 49 employees—98%. That means only 2% is between 50 to whatever.

Mr. Mike Colle: As you know, they say that the small business can't afford to do all the paperwork—

The Vice-Chair (Miss Monique Taylor): Thank you, Mr. Colle.

Thank you, Ms. De Angelis, for your presentation today.

DR. SARAH KAPLAN

The Vice-Chair (Miss Monique Taylor): The next presenter will be Sarah Kaplan. Thank you, Sarah. You have five minutes for your presentations, beginning with your name.

Dr. Sarah Kaplan: Thank you. I'm Sarah Kaplan, and I am a professor and director of the Institute for Gender and the Economy at the Rotman School of Management at the University of Toronto. In this role, I promote the use of rigorous academic research to inform policy and practice, which is particularly important in the realm of gender and diversity, where many common beliefs are not actually supported by data and may end up getting in the way of progress. One such area is indeed the gender wage gap.

In this light, I'd like to say a bit about what we know about the sources of the gender wage gap. When people hear the term, they often imagine that this is coming from women being paid less than men on the job. While, of course, there are many high-profile cases—such as the 2017 settlement of a human rights claim against the LCBO—mainly, research shows that, in aggregate, the violation of equal pay for equal work accounts for only a

small part of the total wage gap, or about 4%, where women earn 96 cents on every dollar the man earns. Now, even that amount is unacceptable and, accumulated over a lifetime, can create substantial gaps in savings. However, there are other more important factors at work.

The state-of-the-art research suggests that the majority of the wage gap opens up around the time of the birth of the first child. This is the case even in some of the most gender-equal societies, such as in Scandinavia, where their wage gap is stuck at the same as ours—about 88 cents—when comparing hourly wages of full-time workers. Why would this be? Well, the evidence suggests that even if women return to the workforce after having children, they often switch careers to a job that will allow them more flexibility to cope with responsibilities at home. This is the case because women still perform much more care work and are expected to put caring over career.

In Ontario, according to StatsCan, women do 50% more work at home than men. Thus, if a woman were in a client-facing role before, she might move into an internal role, or she might switch from a corporate job to a government or non-profit job. These jobs are often paid less than the jobs that men can maintain even after having children. Most of the wage gap can be explained by this career-switching effect.

The other wage gap number you've heard—for example, from Minister Flynn at the second reading of this bill—is 70 cents. This is the number you get when you compare the weekly wages of all working women and men. It's lower than the 88 cents because many more women work part-time. Again, what accounts for the difference in part-time work? It is because women are expected to do more care work.

Whether it's career-switching or part-time work, there is no pay transparency law that is going to fix these largest sources of the wage gap. What has been shown to help is comprehensive state-supported child care, equal parental leaves for men and women, and changing expectations at work and at home about the division of care work.

That being said, let me comment on what Bill 3 might be able to accomplish. First, we should recognize that the province of Ontario already has world-leading pay equity legislation—better than that in Iceland—which covers many more organizations, both public and private and all the way down to those with 10 employees, than those contemplated at the introduction of this bill. Many of the pay transparency provisions that served as benchmarks for Bill 3, such as in Germany, Australia and the UK, are occurring in jurisdictions that did not already have the excellent existing legislation that we have. Their provisions are not as effective or as targeted as the ones we have in place. If you review the company reports coming out of the UK, you will learn that, for example, The Royal Bank's UK operations have a 30% to 60% wage gap. But those reports don't actually tell us anything about pay. Instead, they simply show that RBC and most of the rest of the companies reporting have few women in top jobs.

The Pay Equity Act is already comprehensive. The most important weakness is that there is no reporting requirement, so enforcement is primarily audit- or complaint-based. Quebec, which implemented similar legislation to ours, has added a reporting requirement. To my view, implementing reporting and enforcement within the Pay Equity Act framework is a smarter, more efficient, lower-cost solution for all parties, including the government, employees and employers.

I worry that the proposed approach for reporting and enforcement in Bill 3 will confuse employers and put unnecessary additional burdens on them. We already have more than 30 years of expertise, tools, techniques and capabilities in implementing pay equity in organizations through the Pay Equity Office. Shouldn't we build and reinforce those capabilities rather than create a separate system that is not fully aligned with the existing act?

A question, then, remains as to whether or not the reporting should be public. There are two possible reasons that reporting might work to change organizational behavior. The first is to “name and shame” companies into action. However, this is the same logic applied by the OSC in its comply-or-explain rules for disclosing numbers of women on boards. That regulation has been in place for three years and, despite a lot of press coverage, we have seen very little movement in the numbers over time.

1550

The second reason for reporting is that it would help organizations diagnose their specific issues and make targeted changes. This is the area that I believe would be the most effective. However, doing this does not require that the reports be made public. It would be enough to report the information to the PEO, who would then be able to engage more productively with organizations that are not in compliance. I worry that public reporting might force organizations—

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Dr. Sarah Kaplan: —to focus more on the PR aspects, rather than looking hard at the issues and fixing the problems.

In short, I believe that the goals of the current version of Bill 3 are very laudable, but we would be much better served as a province by using these energies to amend the current Pay Equity Act and also incorporate the other two areas that look at pay equity, like the Human Rights Code, under one roof, so that we have the reporting and expanding the scope of enforcement through the Pay Equity Act.

I'm happy to comment on other provisions of the bill in the Q&A.

The Vice-Chair (Miss Monique Taylor): Well done. Thank you, Ms. Kaplan.

We'll begin with the third party and Ms. Forster.

Ms. Cindy Forster: I'm happy to give you my three minutes so that you can continue talking about other pieces of the bill, as opposed to me taking up the three minutes, so feel free to comment. Go ahead.

Dr. Sarah Kaplan: I just want to say that there are other provisions around things like the legislation's suggestion that the pay bands would be allowed when you make the job description—and I think that's a perfectly fine thing to do. I think it gives people information, so I think it's a good thing to advertise those pay bands. Again, I don't think that's going to give us a huge bump in the change in equal pay, but that's helpful.

Also, the provision around not asking women, or anybody, what their previous salary is, because if you do, you often are benchmarking someone's salary against—you're basically reinforcing the historical discrimination. That legislation has also been enacted in other places. We don't yet know if that works. For example, in the state of Massachusetts, the law went into place last year, but it won't even start being enforced until July of this year.

So we don't actually know how much those other provisions will help, but the research would suggest that they certainly can't hurt.

I just want to reinforce that there's a limit to—when people ask why the Pay Equity Act has been in place for 30 years and we haven't closed the gap, that's because much of the gap is driven off of these other factors related to women not advancing in the work world. You can't fix that with pay equity legislation.

Ms. Cindy Forster: Would you also agree that perhaps some of the outstanding pay equity issues and reviews are related to the fact that the funding was cut by 50% back in the mid-1990s, and you only have so many people trying to look after thousands and thousands of pay equity files?

Dr. Sarah Kaplan: Yes. The Pay Equity Office has a lot of capabilities, but they're also very limited in terms of the number of audits they can do and the number of companies they can engage with. So when I suggest that we simply amend the Pay Equity Act or use Bill 3 to reinforce the Pay Equity Act, that would have to come with appropriate funding. But you can really help the Pay Equity Office if there is mandatory reporting, which is a gap. We have it in Quebec; we don't have it here. Then, the Pay Equity Office can be much more targeted about what they do. Right now, they have to go out and audit to see if there's a problem—

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Dr. Sarah Kaplan: —whereas if they knew from reporting that there was a problem, that would make their work much more efficient. But they definitely need to have more funding to do the work that we would expect them to do.

Ms. Cindy Forster: Has Quebec reported any successes since they've done the mandatory reporting?

Dr. Sarah Kaplan: My understanding is that that has improved activities. They have mandatory reporting every five years, so it doesn't put too much of a burden on every company, but that is starting to pay dividends.

The Vice-Chair (Miss Monique Taylor): We'll move to the government and Mr. Colle.

Mr. Mike Colle: I want to thank you for contributing, because I know of your exemplary academic background

and your professional dedication to this field for so many years. We appreciate you coming to the committee and adding your expertise.

Dr. Sarah Kaplan: Thank you.

Mr. Mike Colle: I was a bit puzzled by what I asked last time; maybe it's just me not being as well versed as some people are in this area. When I asked the former presenter what percentage of people would be covered, she said that 98% of the employees would not be covered, but I think what I understood is 98% of employees are small businesses, not 98% of the workforce is small business. The vast majority of the workforce is in big business and middle-sized firms, right?

Dr. Sarah Kaplan: I don't know exactly the precise breakdown, but what I would say is that in Bill 3, there is actually no specification in the legislation right now of which companies would be covered. But my understanding from the announcement from the Premier was that it was initially going to target the public service, and then companies of 500-plus and then companies of 250-plus.

The Pay Equity Act already goes down to companies of 10 employees or more. Below 10 employees, the administrative burden is quite high. So there may be something else that needs to be contemplated for the smallest companies. If you go all the way down to 10 employees, you can get quite far into the workforce. But the proposal right now for Bill 3 is to start with the public service, and that doesn't take us even to where we are with the Pay Equity Act. So there's a big disconnect right now between those two.

Mr. Mike Colle: But the majority of workers work in large companies, right? If you take the percentage of workers, they don't work in small business.

Dr. Sarah Kaplan: In my preparation, I didn't bring that number, so I can't exactly give you the number.

Mr. Mike Colle: We'll get that.

Dr. Sarah Kaplan: You need to get that. Someone needs to get that number. I don't know, but I think if you only go down to 250, which is where it's eventually going to go based on the announcement, you are not going to cover the majority of employees, because there are many, many small employers out there—

Mr. Mike Colle: Employees or employers?

Dr. Sarah Kaplan: Employers.

Mr. Mike Colle: Yes.

Dr. Sarah Kaplan: Yes, exactly.

Mr. Mike Colle: Because I'm talking about employees.

Dr. Sarah Kaplan: Yes, I agree, but if you only go to 250—

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Dr. Sarah Kaplan: —you're not going to get the full set of workers.

Mr. Mike Colle: Yes. Obviously, the lower you go, the more—

Dr. Sarah Kaplan: Yes, which is why the Pay Equity Act goes down to 10-plus employees.

Mr. Mike Colle: Yes.

The thing that's missing right now is the pay transparency part in the pay equity.

Dr. Sarah Kaplan: The reporting part.

Mr. Mike Colle: The reporting. It's because there are no reporting requirements right now.

Dr. Sarah Kaplan: No. It's either audit- or complaint-based.

Mr. Mike Colle: So this is the start of the mandatory reporting that has to be done—

The Vice-Chair (Miss Monique Taylor): Thank you, Mr. Colle.

Dr. Sarah Kaplan: Agreed.

The Vice-Chair (Miss Monique Taylor): The official opposition and Ms. Scott.

Ms. Laurie Scott: Thank you, Professor Kaplan, for your presentation. Definitely we believe in transparency in the pay bands, and that needs to be done. We firmly believe it can be done in the Pay Equity Act and through the office, if they're properly resourced. They have been working with both the private and the public sectors for many decades.

You touched upon Quebec, the reporting that goes on there and that model. Could you expand a little bit more on that, and maybe incorporate the size of the businesses that we've been talking about? The previous presenter said that it was really only going to affect 2% of the women in the workforce right now. Maybe I'll just lead you and let you go.

Dr. Sarah Kaplan: Right. We've had our pay equity law in Ontario for more than 30 years. Quebec implemented it in 1996, and in 2009, they introduced a series of amendments which included mandatory reporting on that five-year basis, so that you're not reporting necessarily every year. My understanding is that in Quebec, that mandatory reporting is for every company, only they're on a schedule of five-year rotations. It's not that they picked out certain-sized companies to do mandatory reporting; everyone is, in Quebec.

Ms. Laurie Scott: Do they do that incorporated with their year-ends? Do you know the details of that? We're just trying to figure out—

Dr. Sarah Kaplan: I don't know the specific implementation, but as with pay equity—my understanding is that it's a separate report that goes into their equivalent of the Pay Equity Office, and it includes all of the criteria. The Pay Equity Office covers a number of different criteria in terms of each job, like the percentage of women in each job, because what they care about is job classes and comparing job classes. So they have a list of things that they care about, and those are the items that would be reported on in the Quebec setting.

I understand that the Pay Equity Office here is filing written input to you, and it includes a lot of detail exactly on those topics. So you'll have input on that.

Ms. Laurie Scott: Yes. I'm trying to draw that out a little bit for the education, for the government to realize that the piece of legislation isn't all that they hold it out to be, and it can be done more efficiently and get to our

goal of where we want to be, which is both human rights and the Pay Equity Act.

Dr. Sarah Kaplan: Well, I think all three of those should be rolled in together. I think it's a problem that they're under separate roofs.

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

1600

Dr. Sarah Kaplan: Second, we get really excited about what's going on in Iceland or the UK, but all of them don't have our legislation. We are the world's leader. We have better legislation than any country around the world. We shouldn't get excited about what they're doing.

The only missing piece we have is the reporting piece. I think we would be much better off reinforcing our legislation rather than copying the UK legislation, which tells us nothing about pay. It only tells us that there are no women in senior leadership. And that's a different problem; that's not a pay problem.

Ms. Laurie Scott: It's what you do with the data. Thank you so much.

The Vice-Chair (Miss Monique Taylor): Thank you for your presentation today, Ms. Kaplan.

PARKDALE COMMUNITY LEGAL SERVICES

WORKERS' ACTION CENTRE

The Vice-Chair (Miss Monique Taylor): The next presenter is Parkdale Community Legal Services. You will have five minutes for your presentation. Please begin with your name.

Ms. Mary Gellatly: Hi. My name is Mary Gellatly. I am representing Parkdale legal services and the Workers' Action Centre. We work largely with non-unionized people in low-wage and precarious work.

Over the past number of years, we've been working on the Changing Workplaces Review, and we were quite involved in the Fair Workplaces, Better Jobs Act consideration and in particular on the equal-pay-for-equal-work provisions. I am going to talk about pay transparency, largely through the lens of the equal-pay-for-equal-work provisions.

Over the past few months, we have been out talking to workers about the new equal-pay-for-equal-work provisions. We've been doing workshops in Scarborough, in Regent Park—communities all over the place. We've been talking to people who are front-line service workers. When we get to the point where we talk about equal pay for equal work, the same thing happens every time: People are so enthusiastic about finally being able to get equal pay when they do the same job as somebody who is part-time, temporary, full-time or temp agency, and beginning to get some equality. People are learning about equal pay on the basis of gender because frankly a lot of people didn't know about that.

But then we start talking about how workers have to try to get their equal pay for equal work. As you all

probably know, under equal pay for equal work, workers have to ask their employers for pay scales or have to try to get that information from the workers. When we say this, everybody's faces fall and the room goes silent, and then people are really super pissed off, because they know that they cannot ask their employers to get pay information to ask for equal pay provisions.

Then we talk about how there is a reprisals provision, and people are like, "The reprisals protection for non-unionized workers does not provide real protection," because they have seen, over and over again, workers in the workplace who have tried to enforce their employment standards rights being penalized and turfed out the door with no repercussions for employers. They're right not to trust reprisals. I took a look at the stats of reprisals claims at the Ministry of Labour, and only 32% of anti-reprisal claims were successful for workers. That's because the bar is a very high test. Very few workers have access to legal support to try to enforce their rights through the Employment Standards Act.

The reality is, there really isn't any protection. So workers can't afford that risk of losing their job to try and enforce their rights to equal pay by having to ask their employer. Also, as we know, most people are living paycheque to paycheque, and losing their job is something that people can't afford to do.

As we've been going around, rolling out the new Bill 148 stuff, workers have been asking, "Why would the government pass equal pay for equal work if it was dependent on workers to enforce their employers' obligation to provide equal pay?" We said that we had tried to get it through Bill 148, and we weren't successful. So we are happy now that pay transparency is being introduced. We're looking at what it can do for workers in terms of enforcing equal pay for equal work. We think it needs a lot of work. It's a framework that needs to be filled in and has to be amended.

Along with those amendments, we support the Equal Pay Coalition recommendations. You have heard from Fay and Jan, I'm sure, already. But there are a couple I want to touch on in particular, and that is in terms of who the act applies to. If we were to look at, potentially at some point, phasing in employers that have 500 or more employees, that only captures 2.9 million workers working in places that are over 500.

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Mary Gellatly: That means the majority of workers are not going to be protected. Then, if we actually get to 250, that means you've got a piece of legislation that's supposed to provide equal pay—whether it's the Human Rights Code, whether it's pay equity, or whether it's equal pay under the ESA. Every worker is supposed to get it, but the Pay Transparency Act would only cover off half the workers. That's not going to be effective policy to move us forward to deal with equal pay for people in low-wage and precarious work.

I'm probably out of time.

The Vice-Chair (Miss Monique Taylor): Yes. Thank you.

Ms. Mary Gellatly: I'm happy to talk about the other recommendations.

The Vice-Chair (Miss Monique Taylor): We will begin with the government and Mr. Colle.

Mr. Mike Colle: Good to see you again, Mary. The problem is the threshold, I guess you're saying, so therefore if you start at 500, you're not going to be able to tell everybody that they have the same pay transparency rights and provisions, right? You'd like to see that threshold lowered.

Ms. Mary Gellatly: Yes, all workers.

Mr. Mike Colle: I know that you and the people at Parkdale never give up.

Ms. Mary Gellatly: And that's a good thing.

Mr. Mike Colle: I know it. I just wonder: In other jurisdictions in Canada, are there pay transparency thresholds?

Ms. Mary Gellatly: The last person spoke about Quebec's situation. I'm not that familiar with other jurisdictions, so perhaps somebody else can address that.

Mr. Mike Colle: I thought that there weren't any so that this is the beginning of something. I know it's not so low as to catch everybody. But at least it's, let's say, the beginning of this principle and practice of pay transparency. Sometimes we're told that employers at a lower threshold may not be required to be under the pay transparency provisions. But on the other hand, there's nothing to stop them from basically putting in these principles of pay transparency. Maybe I'm being Pollyannaish to think that they'll do it.

Ms. Mary Gellatly: I think the experience in England would prove that that doesn't work. When you look at jurisdictions with pay transparency, certainly European countries have much lower firm sizes. When England tried to implement it on a voluntary basis, I think they got 10, and then had to move to mandatory. A mandatory reporting requirement is essential for us to move forward on this.

Mr. Mike Colle: The other thing I wanted to ask about is compliance. I know that there have been some objections about having compliance officers who are going to be part of this—not by the advocates of this—

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Mr. Mike Colle: —but by other people. Do you think we could do without compliance officers?

Ms. Mary Gellatly: I think certainly the annual reporting to the government would assist. I absolutely think that compliance officers are important. I work with non-unionized people who are facing non-compliant employers all the time. As we heard through the Changing Workplaces Review, proactive enforcement is the most effective way to ensure that our employment standards are followed.

The Vice-Chair (Miss Monique Taylor): We'll now move to the official opposition and Ms. Scott.

Ms. Laurie Scott: I know that you didn't finish all your time, so are there a couple of points—I want you to go ahead and finish your few minutes, if you want to.

Ms. Mary Gellatly: Absolutely. A couple of points: One is that when you have a piece of legislation that only requires the employers of half of the workforce to comply with pay transparency, you create a very uneven playing field for employers, where employers of half the workers have to do it and employers of half don't. In addition to that, you're trying to enforce equality rights for all workers, but only half have the tools for enforcement.

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In addition to that, I would say that we have to get into the bill and amend it to address the issue of scope: what's covered in the requirement to post and to report. I think we have to do that mindful of the fact that it is the Pay Equity Act, it is the Employment Standards Act, with the equal pay provisions, and it's also the Human Rights Code, which provides equal treatment on the basis of pay.

In particular, the requirement should at least include compensation structure, wage grids by gender, job classification, job status and temporary employment status.

In addition, there must be mandatory times. I think five years is not enough. When we were looking at a basic floor of standards for employment standards in terms of equal pay on the basis of status, I think that has to be done at least on an annual basis and pegged to a certain reporting time per year so that we can do the good public policy work we need to do to be addressing the gender gap and to be addressing precarious work in the workplace.

Ms. Laurie Scott: Good. I don't know what—

The Vice-Chair (Miss Monique Taylor): A minute.

Ms. Laurie Scott: Okay. I don't know if you know the best practices in Quebec. When you were mentioning that it has to be more defined, what the scope is of reporting—

Ms. Mary Gellatly: Yes.

Ms. Laurie Scott: There has been mention by previous presenters that, for example, the UK model only gives you certain pieces of information. You mentioned the Quebec model, which I know you said you're not that familiar with. You're correct about leaving out a large number of employees and employers—so the level playing field.

You work with businesses. When you work with them and try to inform them and educate—because this is all part of it too, what they should be reporting and how they should be treating employees—do you have any suggestions? We don't think the bill as it sits right now is going to accomplish what they want it to—

The Vice-Chair (Miss Monique Taylor): Sorry, Ms. Scott.

Ms. Laurie Scott: I already talked the minute out?

Ms. Mary Gellatly: I know. Time flies.

Ms. Laurie Scott: I was trying to—best practices that you saw or a way to deal with employees that you had

mentioned in the scope of practice. But anyway, you're not allowed to answer that, unless Cindy lets you.

The Vice-Chair (Miss Monique Taylor): We'll move on to the third party: Ms. Forster.

Ms. Cindy Forster: Go ahead and answer.

Ms. Mary Gellatly: Best practices in terms of pay transparency?

Ms. Laurie Scott: Yes.

Ms. Mary Gellatly: It is standard practice in enforcing our employment standards law that we have requirements on employers for record provision: to track hours of work—that's how we can enforce overtime; to track age so that we can enforce student wage grids. We are currently again adjusting the record-keeping requirement to fulfill the scheduling.

In fact, I don't think it's this huge, mysterious thing where we have to look at all these other jurisdictions. To enforce basic standards and equity provisions, we make requirements for employers to provide information. So I don't see there being hugely that much difference in that. The legislation that we're trying to enforce through human rights, employment standards and pay equity provides a clear guide on what the boxes are that employers have to tick off. Employers have practices of doing their pay records. It's part of their bookkeeping. I'm sure the Ministry of Labour could look at what kinds of templates could provide assistance to make it easier. There are ways of partnering and developing those kinds of things. So I think that could happen without a problem.

I guess I don't see it as that much of a big deal to implement a rollout. Certainly when you look at unionized environments, the publication of job classes is done all the time, as well as the sunshine list. That information is provided all the time.

The Vice-Chair (Miss Monique Taylor): Ms. Forster, you have one minute.

Ms. Cindy Forster: Okay. Well, I would suggest that this is kind of an election-announcement piece of legislation, a piece of weak legislation that isn't really going to address the needs of the most vulnerable precarious workers in our province. It's only actually going to address employers with over 500 employees in the public sector, most of whom belong to a union already and already have pay transparency.

With respect to the compliance officers—and you talked about it. With millions of unpaid dollars to workers in this province, with compliance officers in place and a promise to hire 191 more, workers still can't even get their vacation pay, their overtime pay, their stat holiday pay and all of those kinds of things. So for the government to suggest that maybe we could go without compliance officers—

The Vice-Chair (Miss Monique Taylor): Thank you; I'm sorry.

Ms. Cindy Forster: It's all right.

Ms. Mary Gellatly: Which is particularly why a robust—

The Vice-Chair (Miss Monique Taylor): Thank you for your presentation, Ms. Gellatly.

BUSINESS AND PROFESSIONAL WOMEN'S CLUBS OF ONTARIO

The Vice-Chair (Miss Monique Taylor): Our next presenter will be the Business and Professional Women of Ontario. You will have five minutes for your presentation. If you could please begin with your name.

Ms. Maide Yazar: Thank you very much. I am Maide Yazar. I am the president of Business and Professional Women of Ontario.

Members of the Standing Committee on Social Policy, thank you for hearing the submission from the Business and Professional Women's Clubs of Ontario. I am the provincial president, Maide Yazar. With me today are Linda Rice, president of BPW North Toronto—would you like to join us?

Mr. John Yakabuski: You are welcome to come to the table. Yes, absolutely.

The Vice-Chair (Miss Monique Taylor): They are welcome to the table.

Ms. Maide Yazar: And Dipal Damani, who is a member of the North Toronto club. They are my moral support today.

BPW Ontario is a member of the Equal Pay Coalition as well as the Provincial Council of Women of Ontario, in addition to being a stand-alone non-governmental organization.

This, for us, is an important occasion on the journey towards gender wage parity. We congratulate the government of Ontario for this first step in achieving pay transparency in Ontario. This, in itself, is one of the 20 recommendations of the gender wage gap steering committee, on which BPW Ontario worked.

In the last 30 years, we have made small progress in achieving gender-based wage gap closure. It still remains a serious issue. Unfortunately, the BPW have to reiterate these essential statistics. No matter what has happened, we still stand at 30%. For indigenous women and newcomer women, that can go up to 57%. This is beyond the tinkering of technicalities of pay grids, compensation gaps/bands; this is really a social justice issue.

There are several measures that are required to address the gender wage gap, one of which is full pay transparency. Requiring job postings to include a salary rate, prohibiting reprisals against employees who disclose compensation: These are some of the steps that need to be in the legislation to ensure pay transparency.

The legislation does one major switch in our work life: It puts the onus for reporting on employers rather than on women. These provisions have to be strengthened as the legislation evolves. Women should not have to—as they have the right now—file a complaint to enforce their rights. Their rights should be encoded, against which then they can make commentary.

Given the depth and seriousness of the issue, Bill 3 represents a modest step. We urge the government of Ontario to take bold action now. Thirty years, surely, has been long enough to wait. BPW archives go back to 1937 for our first resolution on pay equity. And in 1956, we

published a celebratory article: “The Pay Gap Is About to Close.” That was in 1956.

Today we request that the bill demonstrate a fundamental purpose of ensuring that gender compensation gaps are publicly disclosed, thereby giving women the information they need to enforce their rights. The proposed law says that every prescribed employer must prepare a pay transparency report that details the “differences in compensation in the employer’s workforce with respect to gender and other prescribed characteristics.” The bill needs to specify which employers that will apply to, when they have to report, and how that information will be made easily accessible to the public, but for sure to the women of the workplace.

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As a women’s organization that represents working women, and as a member of the Equal Pay Coalition, we’re calling for significant amendments.

The provisions need to apply to all private and public sector employers of more than 10 employees. This is because we just cannot tinker around the edges of this anymore. It’s 2018.

Require employers to file annual transparency reports with the Ministry of Labour and shareholders to ensure compliance with the legislation.

Clearly set requirements and timing of transparency reports, and include penalties for failure to comply. It should not be necessary to talk about penalties, but we are still talking about that.

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Maide Yazar: Remove the need to look at previous compensation.

Set out the obligations of the act in legislation enforced through a Pay Equity Office.

Have a clear purpose and preamble in the legislation.

Thank you so much for listening to our brief.

The Vice-Chair (Miss Monique Taylor): Thank you. We’ll begin with the official opposition and Ms. Scott.

Ms. Laurie Scott: Thank you very much. Congratulations on over 100 years of Business and Professional Women’s Clubs of Ontario.

You have been an advocate for a long time. You bring some similar recommendations forward, as others have, as you have mentioned, because you’re part of those organizations. Do you think, as we’ve been hearing today and yesterday, that Bill 3, as it is right now, seems to be a piece of legislation that doesn’t accomplish what it’s saying it will?

We have the Employment Standards Act, we have the human rights act, we have the Pay Equity Act, and we have the Pay Equity Office, of course. Do you feel that the topics you’ve mentioned—I know there are many—could have just been done through those three pieces of legislation that I’ve brought up, by amending them? I mean, they have to be amended—obviously, we realize that—especially on the transparency.

Ms. Maide Yazar: Laurie, I hate to sound like a broken record, but these are the facts. We do have these three pieces of legislation, and we need this one as well.

This fourth one is actually—we're chipping away still at this big issue of gender economic parity. This fourth one is going to start attaching to the more systemic discrimination that can happen in the workplace.

Just to review again: I have to admit to you, I'm not the expert in this area, but I've had to do a lot of studying on this in the last two years that I've been BPW president. Pay equity and the gender pay gap, you know, are not the same things.

The legislation moves through equal pay for work of equal value, equal pay for equal work, and elimination of discrimination, so it builds one on the other. This pay transparency says that now there's a communication between the employer and the employee on pay, specifically designed for me as, a woman, to know what's going on here and how I fit in this picture in a just way. That's why we have encouraged that this separate legislation go forward.

Yes, there are weaknesses in the legislation. It only gives us an impetus to keep working on it. We cannot pull back, saying, "Oh, we should abandon this legislation." We're advocating for a move forward. It is 2018. We're still at 30%, and for our newcomer women and our indigenous sisters, it's actually 57%.

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Laurie Scott: Thank you very much for your presentation.

Ms. Maide Yazar: Thank you for listening to me.

The Vice-Chair (Miss Monique Taylor): The third party, with Ms. Forster.

Ms. Cindy Forster: You didn't have an opportunity to finish your recommendations. If you want to do that, go ahead.

Ms. Maide Yazar: Actually, yes, I know it was a bit rushed. The last piece, just to reiterate, is to have a strategic statement in the legislation: why we are doing this; this is our commitment. There is going to be other legislation that will need to come after it. Remember, this is just one piece of the big puzzle that is called the gender economic gap.

Ms. Cindy Forster: We've heard from, and we've had submissions from, many groups—many groups that probably, for the most part, already have achieved what people are looking for in this piece of legislation.

We heard yesterday from the Human Resources Professionals Association, who were here representing hundreds of people who work for employers in the human resources field, who did not think that improving this legislation was onerous on employers because most of them work in the world of new technology. It's a spreadsheet, and it's pretty easy to accomplish for most companies, whether they've got 11 employees or whether they've got 5,000 employees.

Ms. Maide Yazar: I so totally agree.

Ms. Cindy Forster: You totally agree with that.

Then we heard from the Ontario Nurses' Association as well, and they certainly are in full support. We've

heard from Catalyst, which is a non-profit group "working with some of the world's most powerful CEOs and leading companies to build workplaces that work for women." We've heard from a lot of women and a good number of men throughout these presentations. We've heard from the Association of Ontario Midwives, whom we met with earlier this week, who as well are still trying to achieve pay equity, even at the higher end of pay scales.

Ms. Maide Yazar: We've supported the midwives in their quest for the settlement.

Ms. Cindy Forster: Is there anything else you would like to add at this point?

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Maide Yazar: The issue is, we're stuck in a rut. It's slippery slopes, and we go up this way, we go up this way, and it's still 30%.

The gender wage gap steering committee put together a 20-point action plan, and if we just made that the provincial strategy—no matter what the government of the day is; we're non-partisan. No matter who is in government, these 20—

The Vice-Chair (Miss Monique Taylor): Thank you. The government and Mr. Colle.

Mr. Mike Colle: I haven't met your compadres before, but thank you very much for your advocacy and your volunteer work in this area for many years, and that you've continued to do it. A lot of people owe you a great deal of gratitude for this. They can't say thank you, so on their behalf I say thank you. And I mean it, because, as you know, there are a lot of racialized women and newcomers who cannot speak to these issues. There has got to be somebody who speaks for them.

You've heard it here today, about how we don't need this act; we just amend the old acts. You see the other jurisdictions that have not introduced this type of legislation. Why do you think there's such opposition and there's such an unwillingness to support this pay transparency provision?

Ms. Maide Yazar: I will respond in a more positive tenor. If there is opposition to this, I think it is a public education issue, of understanding—my frustration with myself, when I present like this, is that it's sometimes hard to boil it into a 30-second elevator speech. Just as an example, it took 20 recommendations from a knowledgeable group, the steering committee, to say, "This is how we close the gap"—20 recommendations. That's not going to fit into an elevator speech.

But I think we owe ourselves, men and women, to make sure our society in Ontario understands the issues. Sure, nothing is perfect, and some of the unintended consequences can happen and have to be dealt with, but let's just keep that 30% up in the air and just shoot at it.

Mr. Mike Colle: Why the opposition? Why do other jurisdictions not do this? Why are people still saying we don't need this legislation? What is it? Do they think

they're going to lose money to women? What's the fear out there?

Ms. Maide Yazar: I cannot comment on that. My fear is that we're not going to take enough action to chip away at this in my lifetime. That would be my fear. If public education is needed—

The Vice-Chair (Miss Monique Taylor): Thirty seconds.

Ms. Maide Yazar: —and if we need to communicate with each other a lot more on these issues to understand what it takes to close the gender wage gap, then we need to get together, communicate and understand these issues.

Mr. Mike Colle: But this legislation is a good step in that direction?

Ms. Maide Yazar: This legislation, with the proposed amendments, will become an excellent step in that—

Mr. Mike Colle: So you would rather see the legislation than us going back to amend the other piece of legislation?

Ms. Maide Yazar: I'm here to speak to that point of view, yes.

Mr. Mike Colle: Thank you.

The Vice-Chair (Miss Monique Taylor): Thank you for your presentation today.

I have a reminder that the deadline for written submissions is 6 p.m. on Wednesday, April 18, and that the deadline for filing amendments to the bill with the Clerk of the Committee is 11 a.m. on Thursday, April 19, 2018.

We stand adjourned until 2 p.m. on Monday, April 23, in committee room 151, when we will meet for the purpose of clause-by-clause consideration of Bill 3.

The committee adjourned at 1630.

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